

and file this their second amended complaint before the court, herein, less of court first being obtained therefor, as doth, set forth below, to wit:

1. Plaintiff demand interlocutory non-affirm stay pending final trial of
their cause to plaintiff's complaint and thereby make the cause of
this trial hereby second cause of action by defendant Sandoz.

Then defined a *triviality* as follows: if a point $x \in E$ of E is contained in $\text{Im}(f)$ before filled, and y is a boundary value of f such that y is filled, x is called a *trivial point* by definition.

• The bond of Stockbridge was issued to Mr. John M. Powers, title, claim and interest to all lands and water rights thereto or now or hereafter to be owned by him, and to his wife, Anna Powers, deceased; that George J. Hazen was entitled to all lands, title, claim and interest to all lands and water rights thereto or now or hereafter to be owned by him, and to his wife, Anna Powers, deceased; that Robert D. Bell, deceased, • Robert D. Bell, title, claim and interest to all lands and water rights thereto or now or hereafter to be owned by him, and to his wife, Anna Powers, deceased.

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acting administratrix of said estate; that James L. Wilcox is the duly appointed, qualified and acting administrator of the estate of Ulric Abenilen, the said Ulric Abenilen having died since the beginning of this action; that Jay Banks is the duly appointed, qualified and acting administrator of the estate of Mrs. J.H. Banks, she having died since the beginning of this action; that the said Earl Stringfellow, John L. Stubb and George M. Leaven be substituted as and for the respective interests to which they have succeeded aforesaid; that John Hanner Bond, James B. Wilcox and Jay Banks be substituted as administrators of the respective interests they represent in lieu of said deceased persons and that the several respective interests and estates interests be by this court adjudicated accordingly.

4. That Hyrum Winterton is the owner of lands situated in section 10, Township 4 South, Range 4 West as hereinafter set forth; that Thomas Winterton is the owner of 18 acres of land situated in said section bounded as more, and are entitled to a first class water right therefrom the Provo river and its tributaries as hereinafter herein particularly set forth, therefore they and each of them ask to interplead their respective rights in this action and have the same adjudicated by this court and hereby submit to the jurisdiction of the court for that purpose.

5. That Subsections a,b,c,d,e,f,g,h,i,j,k,l,m,n,o,r,s,t,u,v, w of Sec 3 of said answer be amended and that Sub-section ~~a~~ ^{and g inclusive} be added thereto to read as follows, to wit:

PHIL SMITH DITCH.

(a) Frederick Remond, ~~6~~ acres, having its source in Provo River, total ~~1~~ ac. ⁵⁸.
~~Philip L. Ford 40 ac through Phil Smith Ditch & Slough (Canyon to each unknown)~~

PHIL SMITH SLOUGH.

(b) Frederick Remond, 18 acres; Joseph Abenilen, 3 acres; Ulric Abenilen, 4 acres from Phil Smith Slough, having its source in Provo River, total ~~27~~ ac.

ABENILEN PRIVATE DITCH.

(c) Joseph Abenilen, 10 acres through a private ditch having its source in Provo river, ~~10 ac~~

THE FOWLER DITCH.

(d) J.L. Peterson, 6 acres; Chris Mitchell 40 acres; Felix Wright 30 acres; John W. Shuler, 10 acres, through what is known as the Mitchell ditch, having its source in Provo River, ~~total 76 ac.~~

ISLAND DITCH. E.R. Bronson 10 ac, Wm Bonner ~~6~~ ac, T. A. Jones 10 ac.

(e) Alfred L. Alder, 4 acres; Jesse Nelson, 12 acres; L. V. Nelson 10 acres; 10 acres; William Winterton, 8.90 acres; John Turri, 1.5 acres; T. B. Winterton, T. Fred Winterton and Loroni Winterton, 5 acres, through which is known as the Island Ditch, having its source in Provo River, total ~~102.40~~ ac ^{140.90 ac}.

HILLTOP DITCH.

Jesse Nelson, 15 acres; Jesse Nelson Jr., 10 acres; George Alder, 10 acres,

Alfred L. Alder, W.W. Alder and James T. Alder, 20.50 acres, irrigated through what is known as the Nelson Ditch, having its source in Provo river, total 20.50 ac.

(g) HENKS BOTTOM SLOUGH
Wm H. Winterton, 17.75 acres irrigated through what is known as Henks Bottom Slough, total 17.75 ac.

(h) SNAKE CREEK SPRINGS.
Wm L. Van Wagoner, 9.70 acres; Hyrum S. Winterton, 15.50 acres, irrigated by means of a ditch leading from Snake Creek, the source of said water is from springs situated on lands formerly owned by C.L. Smith, said springs flowing into said Snake Creek thence by ditch to said lands. total 25.20 ac.

(i) CHARLESTON-MIDWAY SPRING CREEK DITCH.
Hyrum S. Winterton, 12.50 acres; Mrs E.L. Henks (Estate) 3.00 acres; William Winterton, 3.75 acres; John B. Powers, 5 acres; George Edwards 27 acres; Joseph S. Wright 15 acres; C.L. Brown 10 acres; Ellen C. Wright, 28 acres; Dermont Huffaker as administrator of the estate of D.S. Huffaker, deceased, 15 acres; W.D. Wright, 22.50 acres; Hyrum Winterton 9 acres; Thomas Winterton, 18 acres, total 171.60 ac.

(j) SPRING BRANCH Charleston Lower Canal.
William Winterton 5.50 acres irrigated from upper springs, William Winterton 17.50 acres and two fish ponds irrigated from second group of springs; Wm H. Winterton, 9 acres irrigated and two fish ponds supplied from third group of springs, total 28.00 ac. and FOUR FISH PONDS

(k) RIVER DITCH.
John Powers Estate, 8.50 acres; P.M. Edwards 5.50 acres irrigated every two weeks through what is known as the River Ditch, having its source in the west fork of Provo river near Midway Charleston Bridge, 14.00 ac.

(l) BROWN SLOUGH.
John Powers Estate 8.50 acres irrigated through what is known as the Brown Slough, having its source in Provo River, 14.00 ac.

(m) SPRINGER AND TATE SPRINGS.
P.M. Edwards 2.70 acres irrigated from what is known as the SPRINGER & TATE SPRINGS, 14.70 ac.

(n) BONNER SLOUGH AND SOLDIER HOLLOW.
P.M. Edwards 27.20 acres; George H. Edwards 10 acres; L.D. Wright 28 acres, irrigated from what is known as Bonner Springs and Soldier Hollow, having its source from springs, seepage and well water, total 65.20 ac.

(o) NORTH DRAIN DITCH.
George H. Edwards, 5 acres irrigated from what is known as the North Drain Ditch, having its source in springs, drainage etc. 14.00 ac.

(p) WOOTTON SPRINGS.
John B. Powers, 2.91 acres irrigated from what is known as the Wootton Springs, situated upon and near said lands 14.00 ac.

(q) TATE UPPER SPRINGS.
George H. Edwards, 14 acres irrigated from what is known as Tate's Upper Springs, situated on and near Tate's land 14.00 ac.

(r) POWERS SPRINGS.
John Powers Estate, 18 acres; P.M. Edwards, 10 acres; John C. Edwards 10 acres, irrigated ~~thru~~ from what is known as Powers Spring, situated on and near John Powers Estate lands, 14.00 ac.

(s) W.D. Wright Springs,
John C. Edwards, 18.13 acres Joseph R. Murdoch, 22.12 acres, irrigated from what is known as W.D. Wright Springs situated on lands of

by W.D. Wright, in Section 15, T.4 S.R.4 East S.L.M.
(t) MIDWAY TOWN DITCH.

John Kummer Estate, 6 acres situated in Sec. 1, T.4 S.R.4 E.
S.L.M., irrigated through what is known as the Midway Town
Ditch, owned by the Midway Irrigation Company, the water of
which are distributed by said Midway Irrigation Company,

SLOUGH FROM PROVO RIVER.

(u) George A. Carlile, 20 acres irrigated through a slough
having its source in Provo river, and 10 acres irrigated from
spring, situated on the east side of Provo River.

SLOUGH FROM PROVO RIVER.

(v) William N. Casper, 15 acres irrigated through a slough
having its source in Provo River,

10 ac.

(w) HICKEN SLOUGH.

James Casper, 20 acres irrigated from what is known as the
Hicken Slough having its source from springs, drainage, seepage and
waste water

10.

(x) JACK WATKINS SLOUGH.

J.N. Casper, 18 acres irrigated from what is known as the Jack
Watkins Slough, having its source from drainage, seepage, spring
and waste water from lands of Jesse Nelson et al.

18 ac.

(z) DAYBELL SPRINGS.

John M. Richie 30 acres irrigated through what is known as the
upper ditch and 30 acres irrigated through what is known as the
lower ditch; George H. Edwards, 23 acres irrigated through what is
known as the upper ditch and 65 acres irrigated through the
lower ditch; Harry F. Watson, 60 acres irrigated through the ~~lower upper~~
ditch, the sources of which are from what is known as Daybell Springs

100 ac.

(aa) PROVO RIVER.

John M. Richie, 93 acres known as the Knob Richie Ranch, 45
acres irrigated by means of slough having its source in the Provo
river near the north line of said lands and 40 acres irrigated
by means of a slough having its source in Provo River near the
center of said lands during the irrigation season.

93.

WASATCH CANAL.

(bb) HEBER CITY SYSTEM.

Emma Wherritt, Lot No. 3 of Block No. 94 Heber City Survey of
Building Lots through the Wasatch Irrigation Company's Canal,
distributed by Heber City.

Joseph Hatch Lots 3 and 4, Block 78 Heber City Survey of Building
Lots, through Wasatch Irrigation Company's canal, distributed by
Heber City, ~~and one acre known as the Joseph Hatch Coal Barde.~~
through the Wasatch Irrigation Company's canal and distributed by
Heber City.

Joseph Hatch, 20 acres situated east of Heber City, and under the
Wasatch Canal, known as the "Green Farm" through the Wasatch Canal
and distributed by the Wasatch Irrigation Company.

100 ac.

(cc) NORTH FIELD, DRAINAGE AND SPRINGS.

Joseph Hatch, 28 acres in Section 1, Township 4 S.R.4 East S.L.M.
irrigated through ditches and natural water course the source of
which is from springs, drainage and seepage from lands lying immedi-
ately east of said lands and from drainage, seepage and seepage from
the North Field.

100 ac.

(dd) RIVER SLOUGH AND SPRINGS.

William Daybell, 28 acres; George H. Edwards, 17 acres, irrigated by
means of a slough leading from Provo River and from springs lying
near said land, said lands being situated on what is known as "The
Island, near the Daybell Springs."

100 ac.

(ee) Ermine C. Cummings, Lavine J. Murdock, William F. Averett, Edith-
son Averett, Joseph D. Averett, John H. Averett, Edna A. Murdock,
Leona A. Bonner and Gustacia Averett, heirs at law of William Avery Et al.,
deceased, 10.20 acres through sloughs, seepage, drainage and springs.

from lands adjoining said lands.

10.00

(ff)

RIVER CATTLE AND STOCKS.

Alonzo A. Hicken, 10.80 acres irrigated from springs, drainage and springs from lands adjoining said land.

PSA Elish Webster 10 acres in each sp. side of river. Irrigated through a ditch and a slough leading from Provo River.

(gg) CHARLESTON LOWER CANAL.

10.00

ac.

Charleston Irrigation Company, 5.05 acres lying below its site called "Lower Canal", which is supplied from Provo River, from springs, drainage and seepage along its canal.

540 ac.

6. That said lands prior to the irrigation thereof, by the lands aforesaid, were barren and sterile and of little or no value, but which have since become of great value because of said irrigation.

7. That as a further defense, these defendants allege that prior to their respective appropriations, as above set forth, the water appropriated by them was surplus and unappropriated and that by said appropriations they did not interfere with or infringe upon the prior rights of any other person or corporation to the water of said Provo river.

8. That these defendants further allege that the claim of the plaintiff in this action, as against these defendants, is without foundation of right and is a cloud upon the title of these defendants to said water.

WHEREFORE, these defendants and each of them pray judgment against the plaintiff that their and each of their rights to the quantity of water claimed by them and each of them as above set forth be adjudicated and determined and decreed and that the same be affirmed and that plaintiff and all other persons be enjoined and restrained from in any manner asserting any claim or right whatsoever to the waters of said river adverse to these defendants to the extent of their and each of their rights and appropriations, claims and use as aforesaid.

These defendants pray for such other and further relief as may be equitable and just and for their costs herein expended.

Wm S. Willis
Attorney for the Defendants
Hearin set forth.

State of Utah,
County of Wasatch.

H. S. Willes
Subscribed and sworn to before me this 10th day of November, A.D. 1910.
My commission expires
January 1, 1918.

I, *H. S. Willes*, Notary Public,
do solemnly declare and affirm under oath, that he is one of the persons named in the foregoing complaint as defendant, that he has read the said complaint and know the contents thereof and that the same is true of his own knowledge except as to matters therein stated upon information and belief and as to those matters he believes it to be true.



Service of the foregoing second amended notice of certain defendants therein named, hereby accept this 10th day of November, A.D. 1910.

Attorney for Plaintiff
By

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No. 888 Civil.

IN THE COUNTY COURT OF DISTRICT OF THE STATE OF UTAH,
AND FOR UTAH COUNTY.

PROVO MANUFACTUR COMPANY,
a corporation, Plaintiff,

v.

PROVO CITY, et al.
Defendants.

SECOND PLEADING ANSWER OF PROVO CITY, et al.

IN DIST. COURT
UTAH CO., UTAH.
*** FILED ***
NOV 17 1916
E. Walwynne, Clerk
M. J. H., Deputy.